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05-25-07

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

**COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL (NRDC)
ON PETITION TO MODIFY DECISION 07-01-039 WITH REGARD TO
THE TREATMENT OF BOTTOMING CYCLE COGENERATION**

May 25, 2007

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote Policy and
Program Coordination and Integration in Electric Utility
Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL (NRDC)
ON PETITION TO MODIFY DECISION 07-01-039 WITH REGARD TO
THE TREATMENT OF BOTTOMING CYCLE COGENERATION**

1. Introduction and Summary

The Natural Resources Defense Council (NRDC) respectfully submits these comments in accordance with the “Administrative Law Judge’s Ruling Soliciting Further Comment on Petition to Modify Decision 07-01-039 with Regard to the Treatment of Bottoming Cycle Cogeneration” (ALJ Ruling), dated March 27, 2007, and pursuant to Rules 1.9 and 1.10 of the California Public Utilities Commission’s (CPUC or Commission) Rules of Practice and Procedure. NRDC is a non-profit membership organization, with more than 124,000 Californian members, with a long-standing interest in minimizing the societal costs of the reliable energy services that Californians demand.

The Energy Producers and Users Coalition and the Cogeneration Association of California (EPUC/CAC) filed an application for rehearing/petition for modification of Decision 07-01-039 on February 26, 2007, which the Commission subsequently accepted as a petition for modification. NRDC filed its response to applications for rehearing of this decision, including that of EPUC/CAC, on March 13, 2007. We continue to support our comments on the bottoming-cycle cogeneration made in that response, and continue to assert that the greenhouse gas emissions performance standard (EPS) should apply to all cogeneration facilities, using the cogen thermal credit methodology established by D.07-01-039 (Decision). We urge the Commission to reject EPUC/CAC’s petition for modification.

2. The EPS mandated by SB 1368 is a *performance* standard, and the cogeneration thermal credit methodology established by D.07-01-039 can and should also be applied to bottoming-cycle cogeneration facilities.

The greenhouse gas emissions performance standard established by Senate Bill (SB) 1368 was intended to be exactly that: a *performance* standard. The Commission's Decision clarifies that the EPS applies to individual facilities. As bottoming-cycle cogeneration facilities are facilities that produce electricity, they fall within the purview of facilities subject to the EPS, as long as a California load-serving entity intends to make a new long-term commitment to those facilities. Thus, the emissions rate of these facilities should be taken into account when evaluating compliance with the EPS, and the emissions should be calculated using the cogeneration thermal credit methodology adopted by D.07-01-039.

EPUC/CAC's petition for modification claims that "the application of the Decision to bottoming-cycle units is unworkable"¹ and "[t]he lack of useful thermal output renders unworkable the formula in the Decision for calculating [bottoming-cycle] cogeneration emissions" because the Decision's adopted FERC definition of "useful thermal energy" does not apply to bottoming-cycle cogeneration.² However, as we explained on pages 5-6 of our March 13, 2007 response to applications for rehearing:

[T]he Commission has already addressed this issue; after listing the definition of "useful thermal energy output" in the context of topping-cycle cogeneration facilities, the Decision also points out that FERC regulations also address "useful thermal energy" for bottoming-cycle cogeneration. [footnote omitted] The Decision goes on to direct that this useful thermal energy produced for industrial processes in bottom-cycle cogeneration should be accounted for both in the numerator (total emissions should reflect total fuel used for both the industrial process as well as any supplemental firing) and denominator (thermal energy used for the industrial process) of the conversion method formula. [footnote omitted]

In a May 1, 2007 conference call with EPUC/CAC and other interested parties, EPUC/CAC claimed that the cogen thermal credit methodology could not be applied for bottoming-cycle cogeneration. NRDC explained that the cogen thermal conversion formula could indeed be applied for bottoming-cycle cogeneration; the numerator reflects

¹ EPUC/CAC Petition for Modification, February 26, 2007, p. 3.

² EPUC/CAC Petition for Modification, February 26, 2007, p. 4.

the total emissions from the facility (including both fuel used in the industrial process as well as any supplemental firing), and the denominator of energy produced also includes a thermal credit (through the 3413 Btu/kWh conversion factor) for the thermal energy produced by the industrial process that is used for electricity generation in the waste heat boiler. EPUC/CAC has since acknowledged that the cogeneration thermal credit methodology can be technically applied as we described.

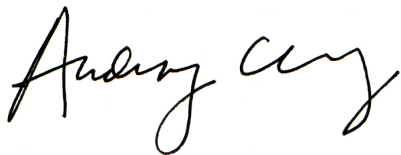
However, despite acknowledging that the calculation can be done for bottoming-cycle cogeneration, EPUC/CAC argues that the Decision's thermal crediting methodology treats bottoming-cycle differently than topping-cycle cogeneration. On the contrary, the methodology treats the two processes consistently, by evaluating the actual emissions performance of the facilities used to generate electricity (while still allowing for credit for thermal energy that is in fact used), as required by SB 1368.

3. Conclusion

The arguments presented in EPUC/CAC's petition for modification of D.07-01-039 are without merit. NRDC respectfully urges the Commission to reject EPUC/CAC's petition for modification of D.07-01-039.

Dated: May 25, 2007

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **“Comments of the Natural Resources Defense Council (NRDC) on Petition to Modify Decision 07-01-039 with Regard to the Treatment of Bottoming Cycle Cogeneration” in the matter of R.06-04-009** to all known parties of record in this proceeding by delivering a copy via email or by mailing a copy properly addressed with first class postage prepaid.

Executed on May 25, 2007 at San Francisco, California.



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